# Well-connected energy biz finagles tax credit rules fix

By HILLARY BORRUD Capital Bureau

SALEM — Not every business can convince state government to change regulations on its behalf.

But that is what a small Portland firm called Blue Tree Strategies did earlier this year.

The well-connected green energy consultancy developed a lucrative business brokering sales of Oregon energy tax credits, and its clients wanted to sell the credits below the state-mandated price. When an employee at the Oregon Department of Energy objected, agency director Michael Kaplan stepped in.

'Effective immediately, please begin honoring all request (sic) for transfers of tax credits where the parties have negotiated the transaction price," Kaplan wrote in a February email to employees at the energy agency. The department would sort out the details later, including changing its rules to retroactively eliminate price regula-

That change gave Blue Tree and its clients a competitive advantage over others selling the credits, an analysis of public records and emails by EO Media Group and Pamplin Media Group reveals.

Oregon issues tax credits to renewable energy and efficiency projects to help offset capital costs. Recipients can use the credits to reduce taxes, or sell them to raise cash.

The Legislature has passed laws intended to ensure sellers receive close to the full value of the tax credit. At the time of Kaplan's email, state rules still called for one of the tax credits to be sold for nearly 91 cents on the dollar, not 79 cents on the dollar as negotiated by Blue Tree Strategies' client Sky Lakes Medical Center in Klamath Falls. Two other clients, public transit providers in southern Oregon, had arranged to sell their tax credits for 80 cents on the dollar, rather than 95 to 98 cents under a pricing formula required in state law.

For Blue Tree Strategies and its clients, the knowledge they could negotiate deeper discounts was a competitive advantage: they could market tax credits that were less expensive and therefore more attractive to buyers. Energy officials' decisions to allow the lower negotiated prices also meant the tax credits raised less money for the en-



Wind turbines blow in the wind south of Cheyenne, Wyo., in October 2002. Oregon energy tax credits were used to fund some wind and solar power projects.

ergy efficiency projects lawmakers wanted to incentivize.

#### Close ties

Blue Tree Strategies has ties to the Department of Energy going back to at least the start of then-Gov. John Kitzhaber's third term, when the firm landed a contract with the nonprofit Clean Energy Works Oregon to promote the state's Cool Schools energy retrofit program to school districts. The consultants also administered grants to supplement the state program.

The department runs Cool Schools, which was part of Kitzhaber's job creation platform during his 2010 campaign. The program helps schools to install new energy-efficient technology such as lighting and heating, ventilation and cooling systems.

Blue Tree Strategies also interacted with the city of Portland, the governor's office and Clean Energy Works Oregon even before the Cool Schools contract.

Aaron Berg, the company's founder and owner, contracted with the city of Portland in 2010 to help launch Clean Energy Works Oregon, which got its start with \$20 million in federal economic stimulus money. The Kitzhaber administration was interested in the nonprofit's work and while Berg was Clean Energy Works Oregon's chief financial adviser, the governor's business adviser Scott Nelson attended the nonprofit's meet-

Consultants working for Blue Tree Strategies also included Matthew Collier and John Warner, who previously worked at the Portland Development Commission. Collier and Warner also marketed tax

credits through the corporation RDTFM Inc.

Together, Blue Tree Strategies and RDTFM have lined up more than two dozen tax credit sellers, including several local governments, and approximately 50 buyers since they started brokering tax credits in 2009. Public clients included the Port of Portland, Metro regional government, TriMet transit agency and Columbia and Marion counties. RDTFM dissolved last year and the consultants now all work for Blue Tree Strategies.

Berg doesn't characterize Blue Tree Strategies as a major broker of Oregon energy tax credits. Nonetheless, Berg said, Blue Tree Strategies and RDTFM have helped sell approximately \$15 million in state energy tax credits as of early August. The Portland Bureau of Transportation alone sold roughly \$2 million worth of tax credits through Blue Tree Strategies.

Still, Berg said, "we're not a big player in this."

Berg pointed to figures reported by the EO Media Group and Pamplin Media Group Capital Bureau, that \$703.6 million in Oregon business energy tax credits were sold to investors from 2006 to 2014. The Department of Energy was also still facilitating tax credit sales during that period. Other tax credit brokers were mostly accounting firms, lawyers and financial advisers, according to chief financial officer Anthony Buckley and state re-

Local governments and private clients paid the two firms hundreds of thousands of dollars for facilitating the sale of their credits. According to public records, Blue Tree Strategies and RDTFM charged a commission of 2 percent to 10 percent on the tax credit sales.

Berg said Blue Tree Strategies started to broker tax credit sales after meeting people who were struggling to find

"We didn't seek it out," Berg said. "Our experience in the '09, '10, '11 days was our clients had a problem. And their problem was (Oregon Department of Energy) wasn't selling their credits for them. But for that problem, we would never be in this business."

Rachel Wray, a spokeswoman for the Department of Energy, said it was difficult for the agency to keep up with demand for buyers after the state expanded the program. The Legislature passed a major expansion of the business energy tax credits in 2007 at the urging of then-Gov. Ted Kulongoski. Then, after it became clear the business energy tax credit would cost the state far more in lost revenue than energy officials had promised, lawmakers voted to end that tax credit in 2011. Energy officials shifted their focus away from helping energy projects find buyers for their tax credits.

#### Blue Tree makes connection

Around the same time, Blue Tree Strategies secured the 16-month \$106,000 contract through Clean Energy Works to promote Kitzhaber's Cool Schools energy retrofit program and administer supplemental grants to schools. Stephanie Swanson, director of marketing for Clean Energy Works, said the federal stimulus funds carried a requirement to spend some of the money on projects that would increase

energy efficiency for commercial buildings.

Blue Tree Strategies coordinated with the state during the Cool Schools project and Berg said he consulted with Buckley, the energy agency's chief financial officer, about the state's plans for the program. Part of the job was to sign school districts up for the state program: Collier wrote in his resume that he "led an effort to support the success of the Oregon Cool Schools Initiative to help school districts finance the installation of energy efficiency measures under the (state's) Small-Scale Energy Loan Program."

Buckley, who oversees the Department of Energy's tax incentive, energy grant and loan programs, did not respond to questions about when he met Berg and Collier.

The negotiated price deals Blue Tree Strategies and its clients pushed the state to allow this year date back to 2014, when Buckley told Blue Tree Strategies the firms' clients could ignore tax credit price mandates in state law and published rules. Buckley said his interpretation of the law was based on discussions with the Oregon Department of Revenue and Oregon Department of Justice. The energy agency has refused to release a copy of the Department of Justice opinion on the issue.

Although Blue Tree Strategies' clients struck deals based on Buckley's advice, another Department of Energy employee stood in the way.

Joe Colello, who handled tax credits and other renewable energy and efficiency incentives at the agency, wanted Kaplan or the Department of Justice to confirm the agency could legally process deals that appeared to violate the pricing formula mandated in state law. The Department of Energy was also under increased pressure to take a public position on whether it would allow the deep discounts, because Colello had discussed the issue with a tax auditor at the Department of Revenue and other brokers had heard rumors the energy agency was allowing the

deals. In January, Senior Manager Irina Antonache at the accounting firm Moss Adams emailed Colello to ask if the state was allowing deeper discounts on the tax credit sales than allowed under state rules. Colello responded that an unidentified broker had indeed arranged for deeper discounts and Buckley was involved in those discussions.

Moss Adams' clients also wanted to more deeply discount their tax credits, Antonache wrote in emails to Colello and Buckley. However, Buckley suggested in a February email to Antonache that Moss Adams should wait to finalize the deals until after the Department of Energy made planned rule changes.

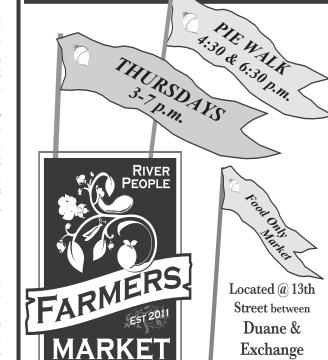
Blue Tree Strategies still operated on different advice from Buckley, and vice president of finance John Warner wrote in a February email to Colello that "it is Blue Tree's understanding, based on our communications with Anthony Buckley, that (Oregon Department of Energy) has received the guidance needed to allow it to proceed with issuing Final Certificates to (tax credit buyers)."

In the end, Kaplan would step in to ensure the deals Blue Tree Strategies had negotiated based on Buckley's advice could proceed.

Berg said the company did nothing wrong.

"Blue Tree is not the bad guy here," Berg said. "I don't break rules ... I look to change rules sometimes, when they need to change.' The Capital Bureau is a

collaboration between EO Media Group and Pamplin Media Group.



**Meet Your Farmers** 

Weekly SNAP Match

A Project of North Coast Food Web

## Signs: More than 200 safety signs were installed

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Signs like the Chapman Point 13 should give people a better idea of where they are, he added, and emergency responders, including the U.S. Coast Guard in water or air rescues, a better idea of where to start looking.

In addition to the num- happen on the beach. Roll-

bered signs, Oregon Parks and Recreation installed more than 200 safety signs warning visitors of hazards such as rip currents and sneaker waves at beach access points. They also list prohibited activities such as littering and fireworks.

"Unfortunately, accidents

ing logs, rip tides and unstable cliffs are all potentially dangerous," said Calum Stevenson, Oregon Parks ocean shore specialist. "Our goal was to clearly convey information that will keep visitors safe, like staying back from cliff edges and staying off logs. At the same time, we also aimed to reduce sign clutter and create a consistent and professional message from north to south."

The signs are as close as 1/4 mile apart near population centers and up to two miles

apart or more in remote areas. The \$78,000 project was funded by visitor fees and Oregon lottery dollars dedicated to state parks.



### How to identify a possible gas leak.

Downtown Astoria

If you smell a rotten egg or sulfur odor, you hear a blowing or hissing sound, or you see blowing dirt, it could be a gas leak.

### What to do.

Leave your home and the area immediately. Don't use any electrical device such as a light switch, telephone, appliance or garage door opener. And don't try to find the leak yourself.

## Who to call.

Go outside and use your cell phone, or a neighbor's phone, and call NW Natural at 800-882-3377.



800-882-3377

Smell. Go. Let Us Know.